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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,700	06/23/2003	Yu-Chen Chuang	681939-52US	5739

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EXAMINER

RAMPURIA, SATISH

ART UNIT PAPER NUMBER

2191

DATE MAILED: 11/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/600,700	<b>Applicant(s)</b> CHUANG ET AL.	
	<b>Examiner</b> Satish S. Rampuria	<b>Art Unit</b> 2191	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 June 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 June 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***DETAILED ACTION***

1. This action is in response to the application filed on June 23, 2003.
2. Claims 1-23 are pending.

***Oath/Declaration***

3. The Office acknowledges receipt of a properly signed oath/declaration filed June 23, 2003.

***Drawings***

4. The drawings were received on June 23, 2003. These drawings are not acceptable by the examiner.
5. The drawings Figures 1 and 2 are objected to under 37 CFR 1.83(a) because they fail to show the details such as labels as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement

sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-23 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,996,817 to Birum et al. (hereinafter, Birum).

**Per claim 1:**

Birum discloses:

- A method of software upgrade control for a system server and a sub-network including a plurality of user terminals, the method comprising the steps of:
  - (a) providing said system server with updated software versions (col. 1, lines 40-45 "...changing version of an application may be updated...");

- (b) selecting one of said user terminals (See Fig. 2-3 and related discussion);
- (c) requesting from said system server a list of said updated software versions that are absent in said selected user terminal (col. 1, lines 40-45 "...A list of resource in a current version of an application is created and compared to the list of resources in a new version...");
- (d) determining whether those of said user terminals unselected in step (b) include any of said absent updated software versions (col. 1, lines 54-61 "...a determination is made as to when to being changing a current version to a new version on a client...");
- (e) receiving those of said absent updated software versions determined in step (d) to have been included in said unselected user terminals (col. 1, lines 54-61 "...when the determination is made, resources are identified that belong to the current version and the new version...");
- (f) receiving those of said absent updated software versions determined in step (d) to have not been included in said unselected user terminals (col. 1, lines 54-61 "...based on the resources, a determination is made as to the resources that are needed on the client for the new version... then configured on the client");  
and
- (g) upgrading said selected user terminal with said received absent updated software versions (col. 1, lines 40-45 "...changing version of an application may be updated...").

**Per claim 2:**

The rejection of claim 1 is incorporated and further, Birum discloses:

- broadcasting an inquiry in said sub-network in determining whether said unselected user terminals include any of said absent updated software versions (col. 4, lines 44-45 "A content server sends the list of resources in the most recent version together with a purge list (Block 705)").

**Per claim 3:**

The rejection of claim 1 is incorporated and further, Birum discloses:

- registering at said system server after requesting from said system server a list of said updated software versions that are absent in said selected user terminal (See Fig. 2-3 and related discussion).

**Per claim 4:**

The rejection of claim 1 is incorporated and further, Birum discloses:

- providing an agent in said selected user terminal in requesting said list of said absent updated software versions (col. 1, lines 40-45 "...A list of resource in a current version of an application is created and compared to the list of resources in a new version...").

**Per claim 5:**

The rejection of claim 1 is incorporated and further, Birum discloses:

- receiving an inquiry broadcast by said unselected user terminals (col. 4, lines 44-45 “A content server sends the list of resources in the most recent version together with a purge list (Block 705)”; and
- transmitting one of said updated software versions in response to said inquiry broadcast (col. 3, lines 27-34 “FIG. 5 illustrates a process for creating a purge list that is used when upgrading versions...”).

**Per claim 6:**

The rejection of claim 1 is incorporated and further, Birum discloses:

- wherein said selected user terminal is upgraded within a predetermined time interval (col. 5, lines 33-35 “At a selected time, the software vendor may cause a switch to occur between versions”).

**Per claim 7:**

The rejection of claim 1 is incorporated and further, Birum discloses:

- providing said selected user terminal with a first client-server structure and a second client-server structure (See Fig. 1 and related discussion); and providing a client in said first client-server structure for requesting said list of said absent updated software versions (See Fig. 1 and related discussion).

**Per claim 8:**

The rejection of claim 7 is incorporated and further, Birum discloses:

- providing said first client-server structure with a first server for receiving an inquiry broadcast by said unselected user terminals (col. 4, lines 44-45 "A content server sends the list of resources in the most recent version together with a purge list (Block 705)" and See Fig. 1 and related discussion); and
- providing said second client-server structure with a second server for transmitting one of said updated software versions to one of said unselected user terminals in response to said inquiry broadcast (col. 4, lines 44-45 "A content server sends the list of resources in the most recent version together with a purge list (Block 705)" and See Fig. 1 and related discussion).

**Per claim 9:**

The rejection of claim 7 is incorporated and further, Birum discloses:

- providing said first client-server structure with a first client for requesting one of said absent updated software versions from said unselected user terminals (col. 4, lines 44-45 "A content server sends the list of resources in the most recent version together with a purge list (Block 705)" and See Fig. 1 and related discussion); and
- providing said second client-server structure with a second client for requesting one of said absent updated software versions from said system server (col. 4, lines 44-45 "A content server sends the list of resources in the most recent version together with a purge list (Block 705)" and See Fig. 1 and related discussion).



**Per claim 10:**

Birum discloses:

- A software upgrade control system comprising:
- a system server; a plurality of updated software versions provided at said system server (col. 1, lines 40-45 "...changing version of an application may be updated...");
- a sub-network including a plurality of user terminals wherein one of said user terminals is selected (See Fig. 2-3 and related discussion);
- a first client-server structure and a second client-server structure provided at said selected user terminals (col. 4, lines 44-45 "A content server sends the list of resources in the most recent version together with a purge list (Block 705)" and See Fig. 1 and related discussion);
- a client provided in said first client-server structure for requesting from said system server a list of said updated software versions that are absent in said selected user terminal (col. 4, lines 44-45 "A content server sends the list of resources in the most recent version together with a purge list (Block 705)" and See Fig. 1 and related discussion);
- a first server provided in said first client-server structure for receiving an inquiry broadcast by those of said user terminals that are unselected (col. 4, lines 44-45 "A content server sends the list of resources in the most recent version together with a purge list (Block 705)" and See Fig. 1 and related discussion);

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- a second server provided in said second client-server structure for transmitting one of said updated software versions to one of said unselected user terminals in response to said inquiry broadcast (col. 4, lines 44-45 "A content server sends the list of resources in the most recent version together with a purge list (Block 705)" and See Fig. 1 and related discussion);
- a first client provided in said second client-server structure for requesting one of said absent updated software versions from said unselected user terminals (col. 4, lines 44-45 "A content server sends the list of resources in the most recent version together with a purge list (Block 705)" and See Fig. 1 and related discussion); and
- a second client provided in said second client-server structure for requesting one of said absent updated software versions from said system server (col. 4, lines 44-45 "A content server sends the list of resources in the most recent version together with a purge list (Block 705)" and See Fig. 1 and related discussion).

**Per claim 11:**

The rejection of claim 10 is incorporated and further, Birum discloses:

- an agent provided in said selected user terminal in requesting said list of said absent updated software versions (col. 1, lines 40-45 "...A list of resource in a current version of an application is created and compared to the list of resources in a new version...").

**Per claim 12:**

The rejection of claim 10 is incorporated and further, Birum discloses:

- wherein said system server supports an interversion protocol (col. 8, lines 3-5 “The transactions may take place over the Internet, WAN/LAN 100, or some other communications network” and See FIG. 2 and related discussion).

**Per claim 13:**

The rejection of claim 10 is incorporated and further, Birum discloses:

- wherein said system server supports a file transfer protocol (col. 8, lines 3-5 “The transactions may take place over the Internet, WAN/LAN 100, or some other communications network” and See FIG. 2 and related discussion).

**Per claim 14:**

The rejection of claim 10 is incorporated and further, Birum discloses:

- wherein said system server supports a file transfer assistant protocol (col. 8, lines 3-5 “The transactions may take place over the Internet, WAN/LAN 100, or some other communications network” and See FIG. 2 and related discussion).

**Per claim 15:**

The rejection of claim 10 is incorporated and further, Birum discloses:

- an agent in each of said user terminals for data communication between said first client-server structure and said second client-server structure (col. 8, lines 3-5

“The transactions may take place over the Internet, WAN/LAN 100, or some other communications network” and See FIG. 2 and related discussion).

**Per claim 16:**

The rejection of claim 10 is incorporated and further, Birum discloses:

- a local area network over which said system server communicates with each of said user terminals (col. 8, lines 3-5 “The transactions may take place over the Internet, WAN/LAN 100, or some other communications network” and See FIG. 2 and related discussion).

**Per claim 17:**

Birum discloses:

- A software upgrade control system, comprising:
- a system server that provides updated software versions (col. 1, lines 40-45 “...changing version of an application may be updated...”);
- a plurality of user terminals grouped to form a sub-network (See Fig. 2-3 and related discussion);
- a first client-server structure formed in each of said user terminals to request from said system server a list of updated software versions that are absent (col. 1, lines 40-45 “...A list of resource in a current version of an application is created and compared to the list of resources in a new version...”), broadcast in said sub-network an inquiry as to whether any other user terminals have any

- updated software versions absent therein, and receive an inquiry broadcast by said other user terminals (col. 4, lines 44-45 "A content server sends the list of resources in the most recent version together with a purge list (Block 705)");
- a second client-server structure formed in each of said user terminals to transmit one of said updated software versions to one of said other user terminals (col. 4, lines 44-45 "A content server sends the list of resources in the most recent version together with a purge list (Block 705)" and See Fig. 1 and related discussion), receive an absent updated software version from one of said other user terminals having said absent updated software version (col. 4, lines 44-45 "A content server sends the list of resources in the most recent version together with a purge list (Block 705)" and See Fig. 1 and related discussion), and
  - receive an absent updated software version from said system server if no other user terminals has said absent updated software version (col. 4, lines 44-45 "A content server sends the list of resources in the most recent version together with a purge list (Block 705)" and See Fig. 1 and related discussion); and
  - an agent formed in each of said user terminals for data communication between said first and second client-server structures (col. 1, lines 40-45 "...A list of resource in a current version of an application is created and compared to the list of resources in a new version...").

**Per claim 18:**

The rejection of claim 17 is incorporated and further, Birum discloses:

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- wherein said first client-server structure formed in each of said user terminals communicates with said system server in an interversion protocol (col. 8, lines 3-5 "The transactions may take place over the Internet, WAN/LAN 100, or some other communications network" and See FIG. 2 and related discussion).

**Per claim 19:**

The rejection of claim 17 is incorporated and further, Birum discloses:

- wherein said second client-server structure formed in each of said user terminals communicates with said system server in a file transfer protocol (col. 8, lines 3-5 "The transactions may take place over the Internet, WAN/LAN 100, or some other communications network" and See FIG. 2 and related discussion).

**Per claim 20:**

The rejection of claim 17 is incorporated and further, Birum discloses:

- wherein said first client-server structure communicates with said other user terminals in an interversion protocol (col. 8, lines 3-5 "The transactions may take place over the Internet, WAN/LAN 100, or some other communications network" and See FIG. 2 and related discussion).

**Per claim 21:**

The rejection of claim 17 is incorporated and further, Birum discloses:

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- wherein said second client-server structure communicates with said other user terminals in a file transfer protocol (col. 8, lines 3-5 "The transactions may take place over the Internet, WAN/LAN 100, or some other communications network" and See FIG. 2 and related discussion).

**Per claim 22:**

The rejection of claim 17 is incorporated and further, Birum discloses:

- a first storage for storing said updated software versions (col. 2, lines 1-6 "When the resources are located on a server then the client downloads the resources from the server, stores the resource locally, modifies a data structure to indicate that the resource is stored locally, and the resources are provided to the client").

**Per claim 23:**

The rejection of claim 22 is incorporated and further, Birum discloses:

- a second storage for storing said updated software versions that are (col. 2, lines 1-6 "When the resources are located on a server then the client downloads the resources from the server, stores the resource locally, modifies a data structure to indicate that the resource is stored locally, and the resources are provided to the client").

***Conclusion***


8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Satish S. Rampuria** whose telephone number is **(571) 272-3732**. The examiner can normally be reached on **8:30 am to 5:00 pm** Monday to Friday except every other Friday and federal holidays. Any inquiry of a general nature or relating to the status of this application should be directed to the **TC 2100 Group receptionist: 571-272-2100**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wei Y. Zhen** can be reached on **(571) 272-3708**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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